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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/992,283

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Douglas F. Connor

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EXAMINER

TARAE, CATHERINE MICHELLE

ART UNIT

PAPER NUMBER

3623

MAIL DATE

DELIVERY MODE

11/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 09/992,283	Applicant(s) CONNOR ET AL.	
	Examiner C. Michelle Tarae	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-14, 18-25 and 29-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-14, 18-25, 29-34 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-11 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The following is a Final Office Action in response to the communication received August 30, 2007.

Claims 1, 7, 12, 18, 23, 29 and 34 have been amended. Claims 4-6, 15-17, 26-28 have been canceled. Claims 1-3, 7-14, 18-25 and 29-35 are now pending in this application.

#### ***Response to Amendments***

2. Applicant's amendments to claims 1, 7, 12, 18, 23, 29 and 34 are acknowledged. Examiner notes that the amendment to claim 1 raises a new Claim Objection and a new 35 U.S.C. 112, second paragraph rejection, presented below.

#### ***Response to Arguments***

3. Applicant's arguments are deemed moot in view of the removal of the art rejections for almost all of the claims. Examiner notes that claim 35 does not have all of the limitations indicated as having allowable subject matter; therefore, the rejection of claim 35 is maintained.

#### ***Claim Objections***

4. Claim 1 is objected to because of the following informalities: Claim 1 recites in the preamble, "...processing units operate to..." It appears Applicant meant *operable* to. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-3 and 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites, "...one or more processing units operate to execute one or more software components..." It is believed Applicant meant to say, *operable* to. Given Applicant's intended recitation, this amendment raises the issue of intended use. Since the claim does not positively recite that the one or more processing units actually execute one or more software components (or that the processing units are programmed to perform the desired steps); but, instead recites that the one or more processing units are *operable* to execute one or more software components, it is not clear if the software components are part of the system. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claim 35 is rejected under 35 U.S.C. 102(e) as being anticipated by Heinrich (U.S. 6,895,383).

As per claim 35, Heinrich teaches a system for generating risk assessment regarding a software implementation project comprising:-

means for accessing a specified importance value and maximum score for each risk factor (col. 5, lines 22-26; col. 7, lines 33-47; col. 13, lines 46-47; Figure 2; Each risk band has a maximum risk value and each risk category has an importance coefficient.), the importance of each risk factor reflecting experience of an implementing entity regarding the extent to which the risk factor may negatively impact a software implementation project if the risk factor is not adequately addressed (col. 3, lines 31-36; col. 4, lines 25-27; col. 8, lines 33-34), the importance value and maximum score for each factor is multiplied to define a potential weighted score for each factor (col. 10, lines 25-63; The potential weighted score, or absolute risk value, for a component, or risk factor, is determined.);

means for receiving an actual score for each factor based on an analysis by the implementing entity specific to the particular software project and generate an actual weighted score for each risk factor by multiplying the importance value and the actual score for the risk factor (col. 11, lines 45-52; The relative risk value, or actual risk score, for each component, or factor, is determined.);

means for determining a relationship between the potential weighted score and the actual weighted score for each factor (equation at col. 11, line 52 shows the relationship between the absolute risk value of a component (i.e., the potential weighted score) and the relative risk value of the component (i.e., the actual score).);

means for assigning a risk level for the particular project to each risk factor according to the relationship between the potential weighted score and the actual weighted score for the risk factor, the risk level for each factor representing an assessment by the implementing entity regarding the extent to which the factor is not adequately addressed (col. 11, lines 45-52; Each component is assigned a risk factor relative to the overall system.); and

means for generating a risk assessment scorecard for display, the risk assessment scorecard comprising the risk factors and the importance value, maximum score, potential weighted score, actual score, actual weighted score, and risk level for each risk factor in a spreadsheet format (col. 6, lines 22-26 and 61-65 col. 20, lines 5-40; Table 1 in col. 15 and Table 2 in col. 20 show the results of a risk analysis in a tabular format.).

**Conclusion**

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Jones et al. (U.S. 6,219,805) discusses a system for dynamic risk assessment;
- Fitzgerald (U.S. 5,798,950) discusses scoring risks having a potential impact on activities;
- Noble et al. (U.S. 6,895,577) discusses a risk metric testing software;
- Sullivan (U.S. 6,876,992) discusses risk control optimization; and
- Dawood, Nashwan. "Estimating project and activity duration: a risk management approach using network analysis," *Construction Management and Economics*, 1998 discusses risk management.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 571-272-6729.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
C. MICHELLE TARAЕ  
PRIMARY EXAMINER

November 12, 2007